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HOUSE BILL 3008 By  
Head

SENATE BILL 2988  
By Cooper J

AN ACT to authorize the State of Tennessee, acting by resolution of its funding board, to issue and sell its interest-bearing bonds and bond anticipation notes for the purpose of providing funds to the Department of Finance and Administration for the purposes of higher education projects; to provide for necessary repairs, replacements, additions and betterments of buildings and facilities, expressly including the acquisition of real estate and equipment for public higher education facilities under the jurisdiction of the Tennessee Board of Regents and the University of Tennessee Board of Trustees; to issue debt to fund discount and costs of issuance; and to provide for the expenditure of such funds. This act makes appropriations for an indefinite period of time for the purpose of allocating the proceeds of the bonds and notes authorized by this act.

WHEREAS, the General Assembly of the State of Tennessee has determined that the State's population is undereducated, a condition likely to affect the economic future; and

WHEREAS, The University of Tennessee and the Tennessee Board of Regents and the public institutions of higher education under their jurisdiction have a vital role to play in improving the State's educational attainment levels; and

WHEREAS, there is a significant unmet need in higher education for capital outlay and capital maintenance for the various public higher education campuses across the state under the jurisdiction of the Tennessee Board of Regents and the University of Tennessee Board of Trustees; and

WHEREAS, the Tennessee Higher Education Commission has compiled a list of an immediate unmet capital outlay need totaling over four hundred forty-seven million dollars (\$447,000,000) and an immediate unmet capital maintenance need totaling over two hundred eighty-eight million dollars (\$288,000,000); and

WHEREAS, this figure does not account for projects that will be needed in the next seven (7) years and are currently being identified and as yet unidentified to address the need created by normal activity and growth on the campuses; and

WHEREAS, this need will be compounded by a significant increase in enrollment which research data indicates is forthcoming within the next ten (10) years; and

WHEREAS, without an enhancement of the facilities at the institutions there will be a significant shortage of available and adequate facilities in which to educate these students; and

WHEREAS, the inadequacies of many current facilities do not lend themselves to an atmosphere conducive to learning; and

WHEREAS, it is the legislative intent that in each year of the 103<sup>rd</sup>, 104<sup>th</sup> and 105<sup>th</sup> General Assemblies funds be appropriated for the issuance of bonds in the same amount as provided in this bill to fund capital outlay and capital maintenance projects of public institutions of higher education under the jurisdiction of the Tennessee Board of Regents and the University of Tennessee Board of Trustees as prioritized by the Tennessee Higher Education Commission; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. The State of Tennessee, acting by resolutions of its funding board, is hereby authorized and empowered to issue and sell direct general obligation interest-bearing bonds of the State of Tennessee in amounts not to exceed two hundred million dollars (\$200,000,000) to effectuate the purposes specified in Section 4 of this act. Further, the funding board is authorized to sell bonds in amounts not to exceed two and one-half percent (2.5%) of the amounts specified above and authorized in Section 4, for the purpose of funding discount and costs of issuance. Such bonds may be issued and sold in one (1) block or in several installments and separately or together with other general obligation bonds of the State of Tennessee as the board may determine, after advertisement as provided by law.

SECTION 2. The bonds and the interest-bearing coupons attached thereto, if any, shall be in such form, mature at such time or times within twenty (20) years from the date of their issuance, be executed in such manner, be payable at such place or places both as to principal and interest, and be in such denomination and bear such rate of interest, payable in such manner, as the funding board shall by resolution direct; provided, however, that the maximum

rate determined by the funding board in no instance shall exceed the legal rate as provided in Section 47-14-103 of the Tennessee Code Annotated. The bonds shall be sold by the funding board after advertisement as provided by law, together with the accrued interest thereon, and when they have been sold, the proceeds derived from the sale thereof shall be paid to the state treasurer to be disbursed by the treasurer and other fiscal officers and agencies of the state as provided by the general law and this act. The bonds and interest payable thereon shall be exempt from taxation by the State of Tennessee or by any county, municipality or taxing district of the state except inheritance, transfer and estate taxes.

SECTION 3. When the bonds are so issued and sold, they shall be direct general obligations of the State of Tennessee for the payment of which well and truly to be made according to the tenor, effect and terms thereof the full faith and credit of the state together with its taxing power, shall irrevocably be pledged; and the bonds as authorized herein shall be issued agreeable to the terms of Title 9, Chapter 9, Tennessee Code Annotated; and they shall be financed, retired, and paid both as to principal and interest as provided in that chapter and shall be subject to the terms and conditions therein and herein contained. When the bonds are sold and proceeds paid over to the state treasurer, the funds shall be paid out by the treasurer and the proper fiscal officers of the state, as provided by general law, but only on order of the proper administrative authorities of the agency or department herein named for the benefit of which such bonds have been authorized and only to the extent such bonds have, in fact, been issued for the benefit of such agency or department.

SECTION 4. The proceeds of any and all issues of bonds herein authorized shall be allocated for the purpose and amounts hereinafter specified:

Two hundred million dollars (\$200,000,000) to the Department of Finance and Administration to be allocated and expended for the purpose of acquisition of equipment, and erection, construction and equipment of sites and buildings, expressly including the acquisition of existing structures for expansion, improvement, betterments and extraordinary repairs to existing structures at public higher education institutions under the jurisdiction of the Tennessee Board of Regents and the University of Tennessee Board of Trustees.

In its discretion the funding board is authorized to issue bonds in amounts not to exceed two and one-half percent (2.5%) of the amounts specified above, the proceeds of which are to be allocated to the funding board and expended for the purpose of funding discount and the costs of issuance.

SECTION 5. The proper authorities heretofore enumerated and charged with the duty of expending the funds shall have authority to proceed with the projects authorized herein and for that purpose may hire an architect or architects, advertise for low bids and award contracts to low bidders, all within the provisions of the general law, expressly including the provisions of Title 4, Chapter 15, Tennessee Code Annotated, and in agreement with the terms of this act. No contract, including a contract for architectural services, involving a project authorized by this act which is subject to the approval of the State Building Commission shall be entered into unless and until that contract shall have been approved by the building commission.

SECTION 6. The appropriation made to each agency or department as provided in Section 4 may be applied as determined by the funding board to bear its appropriate portion of discount and costs of issuance.

SECTION 7. Pending the issuance of the definite bonds authorized by this act, the State of Tennessee, acting by resolutions of its funding board, is hereby authorized and empowered to issue and sell, either at public or private sale, together with accrued interest thereon, its interest-bearing bond anticipation note or notes. Such note or notes shall be authorized by resolution of the funding board, shall bear such date or dates, as such resolution or resolutions provide. The note or notes shall bear interest at such rate or rates, be in such denominations, be in such form, be executed in such manner, be payable in such medium of payment, at such place or places and mature on such date(s), subject to such terms and conditions as such resolution or resolutions may provide. In its discretion, the funding board may provide that a bond anticipation note or any renewal of such note may mature more than five (5) years from the date of issue of the original note; provided, that an amortization schedule of repayment of principal is established for the project funded by the note and provisions are made such that any note or renewal note or bond refunding such note attributed to the financing of such project shall be redeemed or retired either twenty-five (25) years from the date of issue of such original note or twenty (20) years from the date the project is completed and placed in full service, whichever is earlier. Provisions of general law with respect to authentication, execution and registration of general obligation bonds of the State of Tennessee shall also apply to the notes to the extent applicable. The note or notes and the interest payable thereon shall be exempt from taxation by the State of Tennessee or by any county, municipality or taxing district of the state except inheritance, transfer and estate taxes. Any resolution or resolutions of the funding board authorizing the issuance of such bond anticipation note or notes shall provide that the same are issued in anticipation of the bonds authorized hereunder and shall further provide that the full faith and credit of the State of Tennessee are pledged to the payment thereof.

SECTION 8. No bonds shall be issued under the authority of this act until such time as the General Assembly has appropriated sufficient funds to pay the first year's obligation of principal and interest on the amount of bonds to be issued and the State Funding Board has determined that such funds are available.

SECTION 9. Notwithstanding any other provision of this act to the contrary, the bonds and bond anticipation notes authorized by this act may be designated "college savings bonds" and be issued pursuant to the provisions of the Baccalaureate Education Savings for Tennessee Act, Chapter 190, Public Acts of 1989.

SECTION 10. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 11. This act shall take effect upon becoming a law, the public welfare requiring it.